

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

PHILLIP H. OWENS,

Plaintiff,

v.

THE COUNTY OF MONROE,

Defendant.

SECOND AMENDED
SCHEDULING ORDER

21-CV-6445FPG

Pursuant to a joint proposed second amended scheduling order having been filed on March 13, 2023, by Elliot Shields, Esq., counsel for plaintiff, requesting on behalf of all parties an extension of the deadlines contained in this Court's October 17, 2022 Amended Scheduling Order (Docket # 22), and good cause having been shown, it is

ORDERED that:

1. This case has been referred automatically to the Court's Alternative Dispute Resolution ("ADR") program. The ADR Plan and related forms and information are available at www.nywd.uscourts.gov and the Court Clerk's Office.

- (a) The parties have agreed to a mediator.
- (b) Any motions to opt out of the ADR process shall be filed **October 2, 2023**.
- (c) The initial mediation session shall be held no later than **December 1, 2023**.

(d) The referral to mediation shall terminate on **February 1, 2024**. In the event that settlement is not reached, the case will progress toward trial, as scheduled below.

(e) The referral of this case to mediation will not delay or defer other dates contained in this Scheduling Order and has no effect on the progress of the case toward trial.

2. All motions to join other parties and to amend the pleadings shall be filed on or before **June 30, 2023**. Any third party action shall be commenced on or before **June 30, 2023**.

3. The telephone status conference scheduled to be held with the undersigned on March 7, 2023, at 10:40 a.m., is adjourned until **September 12, 2023, at 11:20 a.m.**, to discuss the status of the case and the possibility of settlement. **Dial-in instructions will be emailed to counsel prior to the conference.**

4. All factual discovery in this case, including depositions, shall be completed on or before **October 2, 2023**. All motions to compel discovery shall be filed at least thirty (30) days prior to the factual discovery cutoff.

5. Plaintiff shall identify any expert witnesses pursuant to Fed. R. Civ. P. 26(a)(2)(A) and provide reports pursuant to Rule 26(a)(2)(B) and/or disclosures pursuant to Rule 26(a)(2)(C) by **October 30, 2023**. Defendant shall identify any expert witnesses and provide reports pursuant to Fed. R. Civ. P. 26 by **November 27, 2023**. Parties shall complete all discovery relating to experts, including depositions, by **January 10, 2024**.

6. Dispositive motions, if any, shall be filed no later than **March 1, 2024**.

Unless a consent to proceed before this Court has been filed, such motions shall be made returnable before Judge Geraci.

7. A trial date status conference pursuant to Fed. R. Civ. P. Rule 16(e) and Local Rule 16 will be held, if necessary, at a date and time to be determined by the trial judge after determination of dispositive motions. If no dispositive motions are filed, counsel shall **immediately** contact the trial judge so that a trial date status conference can be scheduled.

At least seven (7) days prior to the trial date status conference, the parties shall file a joint case status report setting forth the information described below. If the parties disagree as to the information to be provided, the report must set forth their different responses. The joint status report shall contain:

- (1) Nature of the Case: Set forth a brief description of the action, identifying the parties, all counsel of record, the relief requested, any affirmative defenses and any relationship the case may have to other pending actions.
- (2) Motion Practice: Are any motions, dispositive or non-dispositive, pending? If so, briefly describe the motion. Explain if additional motion practice is necessary before the matter is ready to be tried.
- (3) Settlement: Describe the status of settlement negotiations. If the parties believe a court supervised settlement/mediation conference would be of assistance in resolving the case or narrowing disputed issues, please state.

(4) Trial: State whether the case is ready for trial. If not, explain why.

Set forth an estimate of how long the trial will take and whether the case is jury or non-jury.

No extension of the above cutoff dates will be granted except upon written application, made prior to the cutoff date, showing good cause for the extension. Application for extensions should be made to the Magistrate Judge. Joint or unopposed requests to extend the deadlines set forth in this order need not be made by formal motion, but rather may be sought in a letter to the court. Letter requests must detail good cause for the extension and propose new deadlines.

IT IS SO ORDERED.

s/Marian W. Payson
MARIAN W. PAYSON
United States Magistrate Judge

Dated: Rochester, New York
March 14, 2023